SUPREME COURT, U. S.

FILED

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No. 763

IN THE

Supreme Court of the United States

OCTOBER TERM, A.D. 1968

BERNHARD ROSEE,

Petitioner,

VS.

BOARD OF TRADE OF THE CITY OF CHICAGO, an Illinois corporation; JAMES E. BAGGOT, JR., and DONALD W. MORRISON, individually and d/b/a BAGGOT & MORRISON; HARRIS HAYWOOD; SIDNEY C. HAMPER, MARTIN H. MILEK, ROY C. LOFTUS, RICHARD ROSE, RAYMOND COMENZO, and THOMAS HERR, individually and as members of the Committee of Arbitration of the Board of Trade of the City of Chicago; JULIUS MAYER; WILBERT E. HUGE; ROBERT L. DAVID; THOMAS E. HOSTY; ROBERT C. LIEBENOW, individually and as President of the Board of Trade of the City of Chicago; WARREN W. LEBECK, individually and as Secretary of the Board of Trade of the City of Chicago; JAMES J. COUGHLIN; ALBERT W. KIBBY; and SAM GORDON,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

SUPPLEMENT TO REPLY FOR PETITIONER

BERNHARD ROSEE, Pro Se.
1260 N. Dearborn Street
Chicago, Illinois 60610
Petitioner, pro se

UNITED STATES LAW PRINTING CO., CHICAGO, ILLINOIS 60618 (312) 525-6581

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NOW COMES the petitioner, *pro se,* and respectfully moves the court for leave to file a supplement to his reply

brief for the reason that petitioner inadvertently omitted replying to certain statements made in the brief for respondents:

Petitioner, further replying to respondent's brief states:

1. Respondents state in paragraph 3 of their argument (Resp. brief p. 9) that petitioner was not denied adequate discovery as to the CEA. This statement is untrue, misleading and contrary to the record. The vital documents in the possession of the CEA including the confirmations of transactions which are submitted by the Clearing House of the Board of Trade to the CEA (as Mr. Kibby testified App. Ct. Appeals, PP. 248-50), as well as records submitted by defendants Baggot and Morrison to the CEA, have never been produced for petitioner's inspection, nor are said confirmations and records in the record before the court. In addition, neither were the cancelled checks nor the daily segregation statements, which were examined as the court states (App. Ct. of Appeals 125), ever produced for petitioner's inspection.

Petitioner specifically described all documents required to prove his case in his subpoena *duces tecum*. Supp. App. Ct. of Appeals, PP. 9-12.

2. In paragraph 4 of their argument (Resp. brief P. 9), respondents imply that petitioner could have amended his complaint during the three year period in which the action was pending. Petitioner was unable to proceed with the case, including the amending of his complaint, because he was deprived of full and complete discovery. Defendants failed to comply with the subpoena *duces tecum* (Supp. App. Ct. of Appeals PP. 9-11) and the district court refused to enforce its order of October, 1963, which required the production of documents.

3. In footnote 6 to paragraph 3 of their argument, respondents state that the *in camera* inspection of documents by the district court was "to afford the court the opportunity to consider the request for discovery-not to decide the case upon the basis of such inspection". The one hundred page decision of the district court (App. Ct. of Appeals PP. 30-131) shows that the court determined and decided, among other matters:

a. That account No. 35 showing a deficit of $19,000.00 belonged to petitioner;

b. that petitioner had deficits in his account;

c. that petitioner consistently incurred losses during the year 1958; and

d. that petitioner had a deficit in his account in the sum of $52,950.75 at the end of 1959.

By the denial of discovery of documents specified in his subpoena *duces tecum* and other documents referred to in paragraph 1 of this supplement, petitioner was foreclosed from proving that the decision by the court was based on fraudulent documents.

Respectfully submitted,

BERNHARD ROSEE
Petitioner, Pro se